


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)
		2018-743
	Application Number	Filed
	10/622,660	July 21, 2003
	First Named Inventor	
		YAMAGUCHI
	Art Unit	Examiner
	1723	T. Cecil
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> Applicant/Inventor</p> <p><input type="checkbox"/> Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> Attorney or agent of record <u>32,331</u> (Reg. No.)</p> <p><input type="checkbox"/> Attorney or agent acting under 37CFR 1.34. Registration number if acting under 37 C.F.R. § 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*</p> <p><input checked="" type="checkbox"/> *Total of 1 form/s are submitted.</p>		



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April 4, 2008

Date

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

YAMAGUCHI et al.

Atty. Ref.: 2018-743; Confirmation No. 1319

Appl. No. 10/622,660

TC/A.U. 1723

Filed: July 21, 2003

Examiner: T. Cecil

For: FILTER HAVING HOLES IN FILTER SECTION THEREOF

* * * * *

April 4, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**STATEMENT OF ARGUMENTS IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The following listing of clear errors in the Examiner's rejections and his failure to identify essential elements necessary for a *prima facie* basis for rejection are responsive to the Final Rejection mailed October 4, 2007 and the Advisory Actions mailed January 10, 2008 and March 20, 2008.

1. The Examiner fails to establish that claims 1, 3, 10-11, 15-17, 19-20, 22 and 29-34 are obvious from Isozumi in view of Verlag under 35 USC §103(a)

In the final rejection, the Examiner contends "that there certainly exists a cross-sectional area of the tubular passage of Isozumi (adjacent the inlet section) that is equal to or smaller than the cross-sectional area of the filter openings", but acknowledges that Isozumi fails to disclose a tubular fluid passage that has a cross-sectional area equivalent to or smaller than a summation of cross-sectional areas of the holes at every point along the length of the filter section. The Examiner asserts that in view of Verlag, however, it would have been obvious to modify Isozumi so as to meet the limitations of applicant's claims.

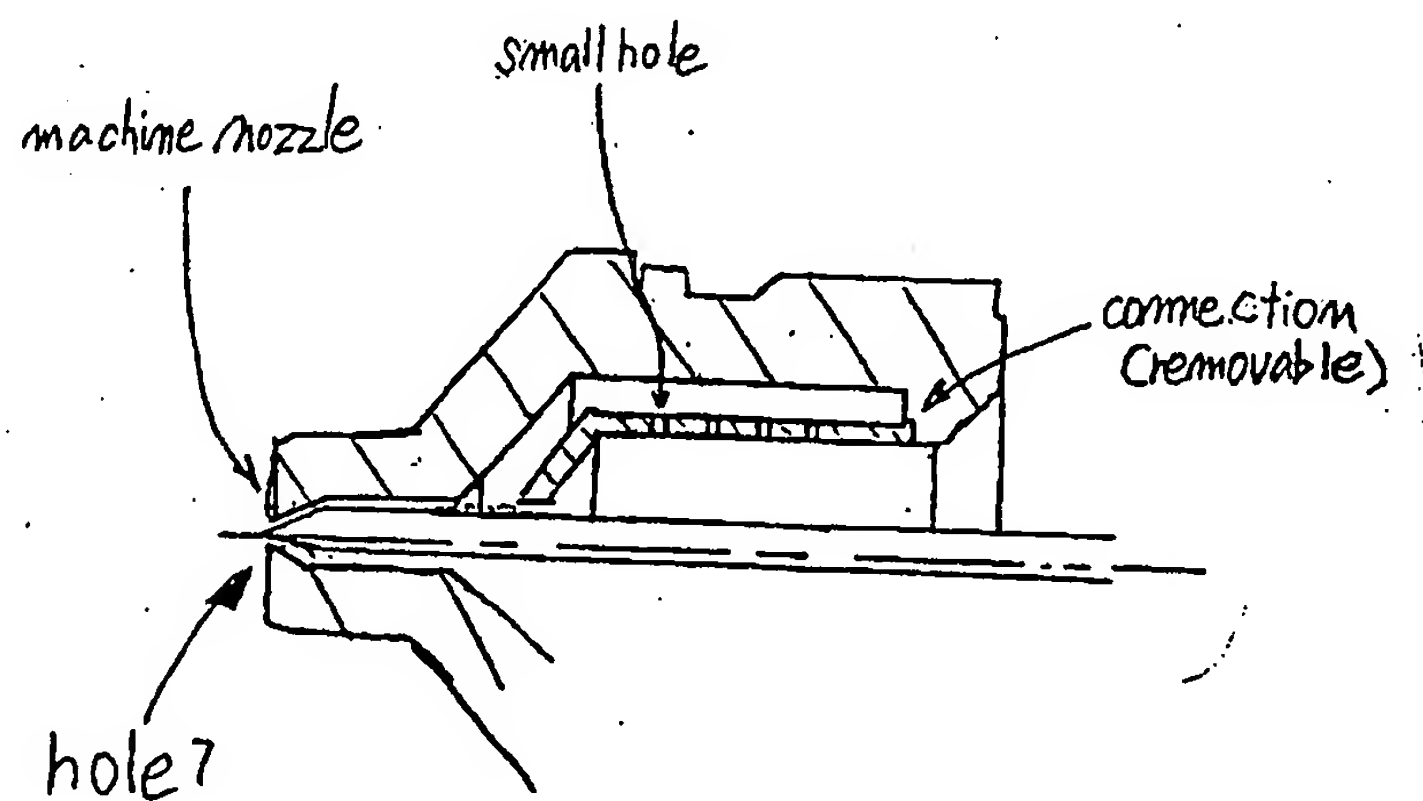
At the outset, the applicant respectfully challenges the Examiner's contention "that there certainly exists a cross-sectional area of the tubular passage (adjacent the

inlet section) that is equal to or smaller than the total cross-sectional area of the filter openings". Because Isozumi does not teach or in any way suggest the relative dimensions of the passage and the filter openings, the Examiner cannot properly contend that this relationship "certainly exists".

In addition, the intent of Isozumi is to determine the size of each square opening in a way that will prevent clogging from freezing, and the square opening (filter opening) is a dominant factor regulating the amount of fuel injected into the engine. Thus, the object, configuration, and feature of Isozumi are different from that defined by applicant's claims 1 and 11.

As noted earlier during prosecution, the drawing and description of Verlag (XP '379) are vague and the Examiner has yet to show any detailed correspondence between the elements of applicant's independent claims and the elements of XP '379. The Examiner's assertion that "the hole" of the nozzle necessitates that the total small hole section be larger than the largest section of the nozzle open space is not a reasonable interpretation of XP '379 and certainly not an interpretation that would be shared by anyone of skill in this art. In this regard, the XP '379 teaching of the small hole section being larger than "the hole" does not require nor in any way teach or suggest that the small hole section be larger than any other portion of the nozzle as the Examiner contends.

Applicant attached to the December 27, 2007 Response a sketch of a possible configuration of the Verlag machine nozzle as follows:



It is unclear if the "hole" XP '397 refers to is the gap between the tip end of the closing bar and the dip nozzle head on the left side of the figure or the diameter of the passage in the dip nozzle head itself. In either case, that nozzle hole is clearly remote from the tubular fluid passage around the filter and it cannot be determined with certainty what relation exists between its cross-sectional area and the cross-sectional area of the tubular passage. However, measuring from the drawings, the cross-section of the hole of the nozzle would appear to be about the same as or smaller than that of the closing bar, which would be much smaller than that of the tubular passage (donut around the filter). Thus, the relation between the nozzle hole and the filter holes has no bearing on and does not teach a relationship between the cross-section of the tubular passage and the filter holes.

Because Verlag clearly does not provide any characterization of the location of the hole of the machine nozzle and in view of the way in which "hole" is normally understood, it is respectfully submitted that Verlag (XP'379) does not teach or suggest the relation between the tubular fluid passage and the holes in the filter section as recited in applicant's claims 1 and 11. It is therefore respectfully submitted that claims 1, 11 and the claims dependent therefrom are not anticipated by nor obvious from Isozumi taken alone or in combination with Verlag.

2. The Examiner fails to establish that claims 2, 18, and 21 are obvious from Isozumi in view of Verlag and further in view of JP 5-269316 under 35 USC §103(a)

In this regard, the Examiner has asserted that it would be obvious to adopt the hemispherically shaped closed end of JP '316 in Isozumi. Applicant respectfully disagrees. Firstly, JP '316 does not teach a "hemispherically-shaped" closed end. In this regard, although JP '316 mentions that one end of the filter tube is sealed, there is no teaching that the sealed end is extensive enough so as to define a "hemispherically-shaped" closed end much less that there would be a reason to provide such a shaped end in Isozumi. Indeed, Isozumi teaches no particular function of his closed end nor significance to the shape thereof. Likewise, JP '316 appears to have a rounded end simply because the filter is formed from porous silica that must be sealed at the end for

the end to be closed. Because Isozumi does not relate to a porous silica structure, there is absolutely no reason whatsoever to reshape the end of Isozumi's filter to be hemispherical, much less to form the side walls thereof to define a constant cross-sectional area for the tubular passage way. Because the structural make up and composition of each of these two filters is different, the skilled artisan would not piecemeal select isolated characteristics of JP '316 and incorporate them in Isozumi. Thus, it is submitted that the skilled artisan would adopt Isozumi or JP '316 in the alternative and would not be motivated to adopt a piecemeal combination of their structures.

It is further respectfully noted that JP '316 fails to teach or describe any relationship between the cross-sectional area of the tubular fluid passage and the summation of cross-sectional areas of the pores/holes. Thus, JP '316 does not overcome the deficiencies of Isozumi and Verlag noted above.

In summary, Isozumi, Verlag and JP '316 do not motivate the skilled artisan to produce the feature of claims 1 and 11, in which the tubular fluid passage regulates the fluid flow thereby enhancing performance of the injector.

3. The Examiner fails to establish that claims 4-8, 13 and 23-28 are obvious from Isozumi in view of Verlag and further in view of Neuman under 35 USC §103(a)

As noted above, Isozumi provides a filter wherein a mesh defines the filtering side wall of the filter. The simple filter mesh has square openings and the focus of Isozumi is the appropriate size of the sides of such openings.

Neuman teaches shaped filter openings defined through a metal side wall. Because Isozumi provides a filter mesh for his filter and teaches in great detail the criticality the size of his filter mesh holes, it is respectfully submitted that it would not be obvious for the skilled artisan to abandon Isozumi's invention and provide instead shaped bores as taught by Neuman. The Neuman shaped bores are not provided as a mesh, are not square in shape, and there is certainly no teaching in Neuman of how shaped bores could be provided in a simple mesh of the type Isozumi discloses. It is

therefore respectfully submitted that the skilled artisan would not modify Isozumi in view of Neuman, but would select one of these two structures in the alternative.

4. The Examiner fails to establish that claims 2, 18, 21, 23, and 26 are obvious from Isozumi in view of Verlag and further in view of Stamstad under 35 USC §103(a)

Stamstad discloses a filter having a hemispherically-shaped closed end defining the fluid passage. However, Stamstad fails to teach or describe the relationship between the cross-sectional area of the tubular fluid passage and the summation of cross-sectional areas of all of the holes in a filter-section. Thus, Stamstad does not overcome the above-noted deficiencies of the primary combination.

Applicant respectfully requests that the pre-appeal panel find that the application should be allowed with the existing claims.

Respectfully submitted,

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